



18
LIVERPOOL, August 1, 1757.

To the Worshipful

RICHARD HUGHES *Esquire*, Mayor,

O R

SPENCER STEERS *Esquire*, his Deputy,

Mr. GEORGE CAMPBELL, and Mr. JOSEPH JACKSON,
Gentlemen Bailiffs.



HEREAS agreeably to the Constitution of this Corporation, by Virtue of Charter Grants made to the Mayor, Bailiffs and Burgeffes, by several Kings of *England*; especially by the Charter of King *Charles* the First, and confirmed by the late King *William* the Third, no Person or Persons have a Right to exercise the Faculty or Faculties of Free Burgeffes, without first being legally admitted, and after such Admission, taking the Oath of a Free Burgeffs; and since that time other the Oaths by Law appointed to be taken, as Qualifications requisite for the Discharge of a Public Trust.

And

And Whereas *Richard Gildart* Esquire the Elder, *John Goodwin* Esquire, Mr. *William Pole*, and Mr. *Francis Gildart*, did a few Years since by their several voluntary and humble Petitions, presented to the then Worshipful the Mayor, Aldermen, Bailiffs and Common Council in Council assembled ; praying to be disfranchised of their Freedom of this Borough and Corporation, and of all the Rights, Liberties, Franchises, Privileges, Profits, Advantages, and Immunities, which may or might any Way appertain or belong to them, to such, and all Intents and Purposes, as if they never had been Free Burgeses, or any Way intituled thereto : And whereas they were released in Form, and have not since that time been re-admitted and sworn ; I hereby in my own Name, and in the Names of several other Free Burgeses of this Borough and Corporation, PROTEST against the said *Richard Gildart* Esquire the Elder, *John Goodwin* Esquire, Mr. *William Pole*, and Mr. *Francis Gildart*, for taking upon them to exercise the Faculties of Free Burgeses in this Corporation : And I hereby enter my PROTEST against all Acts and Things done in Council, and made Entries of in the Council Book, so far as they, or any of them have been concerned and joined in assenting or consenting to such Transactions, in order to render them legal and valid.

And I hereby enter my PROTEST against the Worshipful the Mayor or his Deputy, and the Gentlemen Bailiffs aforesaid, taking upon them to administer the several Oaths to the said *Richard Gildart* Esquire the Elder, *John Goodwin* Esquire, Mr. *William Pole*, and Mr. *Francis Gildart*, or any of them ; which Oaths are by Law required to be taken, to entitle them to be either Free Burgeses, or Members of the Common Council,

within

within this Borough and Corporation, untill they are re-admitted by and with the Consent of the Mayor, Bailiffs and Burgeffes, in Common Hall assembled; according to the Constitution of the Corporation, now made known to the Burgeffes.

*Joseph Clegg, a Member of
the Common Council of this
Borough and Corporation.*



T O T H E
F R E E B U R G E S S E S.

G E N T L E M E N,

AS it now appears that Charter Laws, Reason and Justice on your Parts, are expected to bow the Neck, and submit to an obstinate Perseverance in Measures, not, nor so much as attempted to be, vindicated; that all the pacific Means you have hitherto made use of, are, nor likely to be, of any Effect; but that arbitrary Power is openly set up as the Standard of Government: Your Public Protest is become absolutely necessary, as the leading Step towards the Prosecution of a Design, so truly worthy of your Notice and Regard, as the Asserting your Rights and Privileges is.

I presume the Protest, of which the above is a Copy, and which I have delivered to the Worshipful Deputed Mayor, will furnish you with some Instances of illegal Conduct, which the most of you are yet Strangers to.

I consider the Gentlemen I have made mention of in the Protest, as quite unqualified, in their present State, for the Privilege of Burgeship, and as much so, for that of being Members of the Common Council; and that this unwarrantable and unprecedented Manner of conducting the Public Concerns of this Corporation, must be attended with such Consequences (if not now checked) as will bring you into a State of Confusion, which may be attended with much more Expence and Difficulty to extricate yourselves out of, than it does to lead you into these *easily* foreseen Embarrassments.

This sort of Conduct is dispensing with, not only Charter, but National Laws with a witness, and Ignorance cannot be pleaded; because at the Time of Polling for Members to serve in Parliament in 1754, I objected against these Gentlemen; not only so, but upon the Scrutiny afterwards, when it was insisted upon they were good Votes: Yet, notwithstanding this, upon the same Scrutiny it appeared that the Reverend Mr. *Phipps*,
who

who had been voted an honorary Burgess, and who came and voted for Mr. Lloyd, was struck off, *for not having taken the Oaths required as a Qualification to render him a good Vote*: And I remember at the contested Election, when Sir Thomas Aston opposed Mr. Brereton, that Mr. Cobham of Prescot came and polled for Sir Thomas, but was disallowed in the House of Commons; because, upon some Occasion he had been disfranchised, and not re-sworn; but he took the necessary Oaths on the 17th of October following, and by doing so, became legally re-instated in Burgessship:— Now by what *Hocus Pocus* Trick in Law a Person can renounce to all his Rights of Burgessship, and that Renunciation be accepted and recorded, to qualify him for being an Evidence in a Court of Justice, and after this to be re-instated without being *re-admitted and sworn*, is, I acknowledge, above my Capacity to discover.

I desire to be understood, as grounding this Protest upon a strong Presumption that these Gentlemen have not been re-admitted *and sworn* since their Disfranchisement; but if it should prove I am mistaken, by being denied the Liberty of Examining the Council-Book, (as I have on other Occasions mentioned) it must have been done after a clandestine Manner, and so appear in a worse Light than if it had not been done at all; because a much greater Number of the Burgesses not of the Council, were disfranchised upon the same Occasion, and have not been re-sworn, nor called upon, and if thought necessary for any, then certainly for all. Can it, from the Instances I have mentioned, be imagined otherways, than that upon any future contested Election, if these disfranchised Burgesses should dare to poll in opposition to the Will and Pleasure of the Council, they would not be struck off as disqualified Voters, like Mr. Cobham?

Altho' I have in the Protest taken the Substance, that is, the Prayer of every Petition; (for they are all in one Form) yet, for your Satisfaction I here insert a full Copy, from an Original now in my Custody; which, by turning into a Question, I take to be a proper State of the Case, on which to receive an Opinion: Such I have made it, and laid before a Gentleman whose Opinion I believe you will look upon to be sound, clear and satisfactory, after you have read and compared it with the Petition.

To the Worshipful
The Mayor, Aldermen, Bailiffs *and*
 Common Council

OF THE
 Borough *and* Corporation of LIVERPOOL,
 In Common Council assembled.

The humble and voluntary Petition of one of
 the Freemen or Burgeses of the said Borough and Corpo-
 ration of *Liverpool* : Sheweth,

THAT your Petitioner hath been a Burgess or Freeman of the Bo-
 rough and Corporation of *Liverpool* for many Years, and being
 now become very old, and having served Offices of the Town, or
 still being subject and liable to serve them ; and your Petitioner being
 assured within himself that he cannot so punctually and justly discharge
 the Duty of a Free Burgess of the said Borough and Corporation, as
 it behoveth him to do, or as he could have done some Years ago ;
 and being desirous to retire and be absolved and discharged from all
 Duty or Attendance thereon ;

YOUR Petitioner therefore humbly prays this Council, That they
 would take his Case into Consideration, and so disfranchise him
 of his Freedom of the said Borough and Corporation, and of all
 the Rights, Liberties, Franchises, Privileges, Profits, Advantages,
 and Immunities of the said Town, that may or might any ways
 belong or appertain to him, to such and all Intents and Purposes
 as if he had never been a Free Burgess of the said Borough
 and Corporation, and any ways entitled thereto :

And your Petitioner will ever pray, &c.

I HAVE read the Charter, and the Remarks upon it, with the utmost Attention ; and it seems clear to me, by page 27, that the disfranchised Members must be sworn a-new, before they can be admitted into the Execution of any Part of the Office of the Common Council : For, after such Disfranchisement, if it had any Operation at all, they are as if they had never been Burgessees, nor of the Common Council : And that it had such Operation, must have been clear in the Opinion of the Council and their Lawyers, as well as of the Judges and the adverse Party in the Cause, in which they were admitted as Witnesses. Besides, in Reason and Law, whether the being a Member of the Common Council be consider'd as an onerous or a lucrative Office, every Man may renounce to his own Right ; and those to whom a Service is due have a Power to release it. This Power, as I understand, is assumed by the Common Council, in various Instances analogous to the present Case.

I hope, Gentlemen, that what I have now laid before you, will further convince you of the absolute necessity there is to engage your zealous Attention to every prudent Method, in order to having your Public Concerns put under a Constitutional Direction.

I have heard it suggested by some Persons, (but not any of the Gentlemen of the Common Council, I dare say they know better) that the Public Money will be made use of to defend a Prosecution at Law, against endeavouring the Attainment of your Charter Rights : Provided the Assignment of the Prisage Revenue, as made to the Use of the Common Council, had not been defeated, there might have been a Freedom with that Money probably dispensed with ; but you know that that intended occasional *sure Refuge* has made it's Exit some time since.

It took its first Breath in 1736, but being base-begotten, and springing from a rotten Stock, it was nursed up in Obscurity, and supported a wretched Life, by living upon plundering the Prisage Revenue, untill 1752, when it made it's Departure ; and dying under Age, it's pretended Patrimony, contrary to the Will, reverted to the Right Heir at Law, *the Mayor, Bailiffs, and Burgessees*. This is a short Account of poor *Refuge's* Birth, manner of Living, and Departure ; his heroic Actions are already exhibited in an Account Current settled in 1744 ; and if I have any ways misrepresented him, I am willing to be set right by his surviving Guardian and Nurse Tender.

There

There is a leading Gentleman in the Council, can, from his own Knowledge, (strengthen'd with the best Counsel's opinions he could obtain in 1736) convince any Enquirer, that Public Money dare not be applied to support and defend an illegal Exercise of Power; and I know he has been consulted. I can safely undertake to say, That if, I co'd be weak or idle enough to suppose that a Principle of Honour and Justice had no hold of the Gentlemen of the Council, yet they will not choose to throw away their Money into the Bargain.

They may hold out an Attack by the Plea made use of at the late Conference, *That smaller Errors may in point of Prudence be submitted to, to prevent much greater Inconveniences taking place*; and a Common-Hall meeting as it may be described, may make a hideous Appearance. The Comet, which according to the Laws of Nature is to make it's Appearance in 1758, has been represented after a very frightful manner; however, some judicious Gentleman has kindly published such Remarks upon it, as I hope will dispell unnecessary Fears from weak Minds: And tho' a Common Hall Assembly may be so described as to make a disagreeable Appearance, yet the Burgeses have dressed it up in a different Garb; they are very sensible, that *riotous and tumultuous Assemblies* can answer no valuable Purpose, unless LIBERTY was at it's last Gasps: In such Cases there are Instances of *Vox Populi* being loudly and warmly expressed, and by that means Revolutions have been brought about. But tho' the Burgeses, by the Treatment they have met with, may be looked upon as having a Call; yet they have no Inclination to such Expedient: They have a much more prudent and safe Method to pursue; for as it was allowed at the late Conference, that neither Law, Reason, nor the long Usage of Illegal Power, were Bars in their way, then Law and Reason must be in their Favour, for they never stand Neuter; so that a steady Perseverance, with the Assistance of such Advocates in the Measures they are now pursuing, will, I hope, and doubt not, bring about the Attainment of their Wishes, without throwing Arbitrary Power into any Convulsions before it makes it's Exit. Which I sincerely wish to be the Case; and am,

Their humble Servant,

LIVERPOOL,
August 1, 1757.



Joseph Clegg.

